

REMARKS:

Reconsideration of the rejections is respectfully requested.

The status of the claims is as follows:

Amended:	None
Cancelled:	1-16
New:	17-31
Pending:	17-31

The claims, particularly the independent claims, have been revised to more clearly define the invention. The claims are presented as new claims 17-31 to remove possible ambiguity found in Applicant's record. The claims correspond in substantially the same order, except that the order and dependency of claims 18-21 is more in keeping with the ordering rules, and prior claim 10 is not carried over. Support for the amendments is either apparent, or is as described in the text below. Support for the distinct carrier and adhesive layer recitations can be found, for example, in the claims as filed. The recitation that in some of the alternatives the surfactant is not of the type of that used in one of the examples used is found, for example, in the numerous other exemplifications found on pages 13-14 of the specification.

Claim Rejections - 35 U.S.C. §102(b)

Prior claims 1-3, 7-8 and 15 stood rejected as anticipated by Chiang, US 5,252,334. Applicant respectfully traverses.

The reference is cited as teaching surfactant within the reservoir of a patch. Applicant respectfully notes that the claims recite that the surfactant is "within a carrier that is segregated from, but in contact with, the deposit." As the specification teaches, this means that the carrier and the deposit material are not in intimate admixture. Hence, the rejection as formulated in the Office Action is in error.

One might argue (for the sake of argument) that the matrix of Chiang, in some combination of hypothetical alternatives, might contain surfactant. However, nothing in Chiang discloses or suggests that the matrix might have surfactant, while the reservoir for extra active lacks the surfactant. Accordingly, such a hypothetical rejection would also be in error.

Claim Rejections - 35 U.S.C. §103(a)

The prior claims stood rejected as asserted to be obvious over Chen, WO 99/63972 in view of Jain, US 5,716,609. Applicant respectfully traverses.

The rejection has a fundamental flaw: it does not take into account that the surfactant is "disposed within a carrier that is *segregated from*, but in contact with, the deposit." This means, as is quite clear from the specification, that the surfactant and the active are not intimately admixed. The rejection asserts that since Jain teaches surfactant, it would be obvious to use in the structures of Chen. Jain teaches a "formulation" which can solubilize Nimesulide. In other words, Jain teaches an intimate admixture. The rejection does not in any way support an argument that it would be desirable or even knowable to place surfactant in a structure such as claimed so that it is separate from the active. Accordingly, Applicant respectfully submits that the rejection is in error and should be withdrawn.

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Conclusion

In light of these amendments and remarks, it is respectfully submitted that the Amendment should be entered, the rejections should be withdrawn, and that the application is in condition for allowance.²

Respectfully submitted,



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